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April 18, 2007

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

Re: Notification of *Ex Parte* Communication
WT Docket Nos. 96-86, 06-150; PS Docket No. 06-229

Dear Ms. Dortch:

This letter is to report a permitted, oral *ex parte* communication of Frontline Wireless, LLC (“Frontline”) and its counsel concerning the above-referenced proceedings.

Specifically, on April 17, 2007, Janice Obuchowski (Chairman of Frontline), Gerard Waldron and Jonathan D. Blake met with Angela Giancarlo, Legal Advisor to Commissioner Robert M. McDowell. In the meeting, the parties discussed Frontline’s Public Safety Deployment Plan (“Plan”) and proposed service rules. The parties also discussed the Commission’s Designated Entity (“DE”) rules and emphasized the fact that Frontline’s proposal to require the “E” Block licensee to be a wholesale provider is consistent with these rules.

The DE rules, which prevent an entity that leases or resells more than 50% of its spectrum capacity to another entity from qualifying as a DE, were adopted to prevent a small business from buying spectrum at a reduced price and “flipping” the spectrum to a larger entity.¹ Frontline’s proposal is quite the opposite of the type of agreement the rules were aimed at preventing, as the “E” Block licensee would both build and operate a radio frequency network and offer not spectrum, but rather network capacity on a wholesale basis to the public safety community and other customers and would not engage in leasing or reselling. Simply put, this proposal does not involve the “resale” but rather the direct sale of network capacity to customers. Finally, the “resale” activity precluded by the Commission was aimed at the “flipping” of

¹ See *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, Second Report and Order, WT Docket No. 05-211, 21 FCC Rcd 4753, 4763 ¶ 25 (2006), *codified at* 47 C.F.R. § 1.2110(b)(3)(iv)(A) (the Commission’s intent to prevent “flipping” is clear from the fact that it expressly tied the resale restriction to an agreement which “creates the potential for the relationship to impede a [DE’s] ability to become a facilities-based provider, as intended by Congress”).

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spectrum by a DE to third parties, *not* the sale of the type of facilities-based network services envisioned by Frontline's Plan.

It would be an arbitrary expansion for the Commission to read the "resale" limitation as applying to the "E" Block licensee, since that interpretation is well beyond the scope of the original intent and the language of the DE restriction. Furthermore, denying the "E" Block licensee DE status because of its wholesale business model would undermine the entire purpose of the DE program. The DE program was created to encourage new entrants to bid for spectrum and construct networks, and this is exactly what will occur if an "E" Block bidder, who otherwise meets the DE requirements, is able to qualify as a DE. In addition, the "E" Block itself, with its roaming requirements and open access principles, will uniquely enable the flourishing of small business innovators in the wireless arena.

Thus, the Commission should enthusiastically embrace DE participation in the "E" Block auction by reasonably clarifying that its existing rules encompass such participation.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerard J. Waldron". The signature is fluid and cursive, with the first name "Gerard" being more prominent.

Gerard J. Waldron
*Counsel to Frontline
Wireless, LLC*